

**REMARKS**

**Section 112 Rejections**

Claims 1, 6, 7, 10, 11, 17 and 18 were rejected under 35 U.S.C. §112, first and second paragraphs.

Applicants have amended these claims. Applicants respectfully submit that the so-amended claims satisfy §112, first and second paragraphs. Applicants note that although claim 7 was rejected under §112, second paragraph, this appears to be an error.

**Section 102 Rejections**

Claims 1-7, 9-15, 17 and 18 were rejected under 35 U.S.C. §102(a) as being anticipated by an article authored by Wei et al. ("Wei"). Applicants respectfully disagree and traverse this rejection for at least the following reasons.

The present claims include the feature of sending a set-up message from a node before a cross-connect at such a node may be completed, among other things. Wei does not disclose or suggest the sending of such a message before a cross-connect may be completed, as in the claims of the present invention.

Instead, in Wei the initiation of a next downstream cross-connect occurs only after a cross-connect is completed (see Wei, page 2029, column 1). Accordingly, because Wei does not disclose each and every feature of the claimed inventions, Wei cannot anticipate claims 1-7, 9-15, 17 and 18.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1-7, 9-15, 17 and 18.

**Section 103 Rejections**

Claims 8 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wei in view of an article by Qiao et al. ("Qiao"). Claims 8 and 16 require in-band signaling messages to be used in order to initiate cross-connections.

As the Office Action admits, Wei does not disclose or suggest such in-band signaling. To overcome this deficiency, the Examiner relies on Qiao. Applicants respectfully disagree and traverse this rejection for at least the following reasons.

Applicants respectfully submit that, the Examiner's comments notwithstanding, the combination of Wei and Qiao is improper because such a combination would either render one or both of the references unsatisfactory for their intended purposes or require that the principle of operation of one or both of the references be changed. For example, Wei discloses a WDM system that uses out-of-band signaling to enable cross-connections. On the other hand, Qiao discloses a non-WDM system. Even if Qiao discloses in-band signaling, combining the disclosure in Qiao with Wei would require that Wei's principle of operation be changed. This is not permissible (see MPEP 2143.01).

Accordingly, for at least this reason, Applicants respectfully submit that the combination of Wei and Qiao is improper, and request that the rejections of claims 8 and 16 be withdrawn so that claims 8 and 16 may be allowed.

**New Claims 19-21**

New claims 19-21 are directed at methods where an intermediate node sends out the set-up messages referred to in independent claims 1, 6 and 9. Support for these claims can be found in the specification at least on pages 5 and 6.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

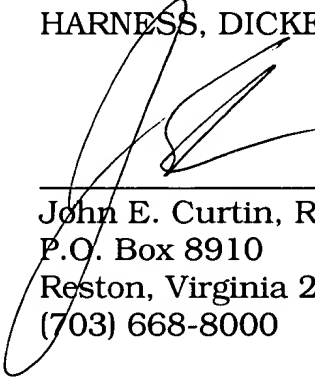
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By



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